

Under the Motor Fuel Tax Law, a tax is imposed upon the use of motor fuel upon Illinois highways by commercial motor vehicles. 35 ILCS 505/13a (1998 State Bar Edition). Such Motor Fuel Use Tax is not a tax that is collected or withheld by a taxpayer from another person nor is it a tax for which an amount is required to be collected or withheld by a taxpayer from another person. The Motor Fuel Use Tax is directly remitted by taxpayers to the Department. As such, the Motor Fuel Use Tax is not a trust tax. (This is a GIL).

December 30, 1999

Dear Xxxxx:

This letter is in response to your letter dated November 12, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Please provide an opinion for the following question.

Whether an IFTA (International Fuel Tax Agreement) tax obligation falls into the category of a 'Trust Fund' occurrence, as is the case with Use, R.O.T. and Sales Tax.

Thank you for your attention in this matter.

Under the Motor Fuel Tax Law, a tax is imposed upon the use of motor fuel upon Illinois highways by commercial motor vehicles (commonly referred to as the Motor Fuel Use Tax). 35 ILCS 505/13a (1998 State Bar Edition). Every commercial motor carrier is required to pay the Motor Fuel Use Tax to the Department. 35 ILCS 505/13a.1 (1998 State Bar Edition). Illinois-based carriers operating qualified motor vehicles interstate are subject to Illinois' International Fuel Tax Agreement program requirements.

Unless otherwise specified in a tax Act, the Uniform Penalty and Interest Act applies to all taxes administered by the Department, except for the Racing Privilege Tax Act, the Property Tax Code, the Real Estate Transfer Tax Act, and the Coin Operated Amusement Device Tax. 35 ILCS 735/3-1A (1998 State Bar Edition). Section 3-7 of the Uniform Penalty and Interest Act provides, in part, that a "trust tax is any tax for which an amount is collected or withheld by a taxpayer from another person, and any tax for which an amount is required to be collected or withheld by a taxpayer from another person, regardless of whether it is in fact collected or withheld." 35 ILCS 735/3-7(f) (1998 State Bar Edition).

Applying the above as a guideline, the Motor Fuel Use Tax imposed upon the use of motor fuel upon Illinois highways by commercial motor vehicles under the Motor Fuel Tax Law is not a trust tax. It is not a tax that is collected or withheld by a taxpayer from another person nor is it a tax for which an amount is required to be collected or withheld by a taxpayer from another person. The Motor Fuel Use Tax is directly remitted by taxpayers to the Department. As such, the Motor Fuel Use Tax is not a trust tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk
Enc.